

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No: 21-CR-40039-SMY
	)	
MINGQING XIAO	)	
	)	
Defendant.	)	
	)	

**DEFENDANT MINGQING XIAO’S RESPONSE TO UNITED STATES’  
SUPPLEMENTAL MOTIONS *IN LIMINE***

Now comes defendant Mingqing Xiao, by and through his attorneys, who provide this Court with this response to the government’s supplemental motions *in limine* to preclude the defense from attempting to define “reasonable doubt” for the jury, making arguments related to potential penalties faced by Dr. Xiao, and introducing evidence of the amount of taxes owed by Dr. Xiao.

**ARGUMENT**

**1. The Government’s Motion In Limine No. 3 (Defining Reasonable Doubt To The Jury)**

The government moves *in limine* for an order prohibiting the Defendant and the Government from defining reasonable doubt for the jury. The defense does not oppose this motion.

**2. The Government’s Motion In Limine No. 4 (Potential Penalties Faced By Dr. Xiao)**

The government moves *in limine* for an order barring any evidence, argument, or witness examination regarding any penalty to be imposed on Dr. Xiao in the event he is convicted. The defense does not oppose this motion, subject to the government opening the door to the issue.

*United States v. Touloumis*, 771 F.2d 235, 241 (7th Cir. 1985) (“This circuit has held on numerous

occasions that when a party questions a witness on a subject, even though that subject may not be strictly relevant to the case, the party cannot complain on appeal if the opposing party subsequently introduces evidence on the same subject.”).

**3. The Government’s Motion In Limine No. 5 (Amount of Tax Deficiency and Taxes Owed)**

The government moves *in limine* for an order barring introduction of evidence regarding the amount of Dr. Xiao’s tax deficiency in tax years 2017, 2018, and 2019. The defense does not oppose this motion, subject to the government opening the door to the issue. *United States v. Touloumis*, 771 F.2d 235, 241 (7th Cir. 1985) (“This circuit has held on numerous occasions that when a party questions a witness on a subject, even though that subject may not be strictly relevant to the case, the party cannot complain on appeal if the opposing party subsequently introduces evidence on the same subject.”).


While the government does not have an obligation to prove an actual tax deficiency under 26 U.S.C. § 7206(1), the cases cited by the government do not hold that all evidence of a defendant’s tax information is *per se* irrelevant. They speak specifically to the inadmissibility of the actual amount of taxes owed. The defense opposes any restriction on Dr. Xiao’s ability to introduce as evidence any of Dr. Xiao’s other tax information that may be relevant to the elements of 26 U.S.C. § 7206(1), specifically, Dr. Xiao’s state of mind and the materiality of any alleged falsity or incompleteness. Dr. Xiao should be permitted to introduce evidence of his tax information where it is relevant to the elements of the charged offenses.

## CONCLUSION

WHEREFORE, Dr. Xiao respectfully requests that these motions *in limine* be granted in part and denied in part.

Dated: April 5, 2022

Respectfully submitted,



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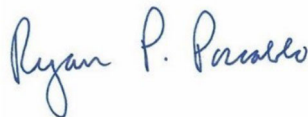
### CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2022 I electronically filed Defendant's Response to United States' Supplemental Motions in Limine with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record, including:

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